



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.9432 of 2015

WEB COPY

- 1.S.Ganesan
- 2.A.Rajendran
- 3.M.Arumugam
- 4.M.Pitchaiya
- 5.C.Thangapandian
- 6.E.Ramakrishnan
- 7.J.Jeyachandran
- 8.M.Sakthivel
- 9.P.Lakshmanan
- 10.P.Murugesan
- 11.S.Saravanan
- 12.K.Balakrishnan
- 13.G.Pasupathi
- 14.K.Mariyappan
- 15.P.Senthilkumar

... Petitioners

Vs.

- 1.The Secretary,
Home (Police) Department,
Tamil Nadu Government,
Secretariat, Chennai.
- 2.The Director General of Police,
Chennai-4.
- 3.The Commandant,
TSP Coastal Security Group Battalion,
Mandapam Camp at Manimutharu,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent orders in G.O.Ms.No.110 Home (Police) Department dated 17.02.2011 and its consequent order 3rd respondent's order in Na.Ka.No.A1/1610/2011 dated 21.03.2011 and quash the same in respect of the petitioners and consequently direct the 1st respondent to regularize the petitioners service from 16.03.2008 in view of the G.O.Ms.No.32 dated 10.01.2006 Home (Police) Department and consequently sanction all the service benefits within the period stipulated by this Court.

For Petitioners : Mr.A.Haja Mohideen

For Respondents : Mr.M.Jeyakumar

Additional Government Pleader



ORDER

The order of rejection rejecting the claim of the writ petitioner for retrospective regularization from the date of their initial appointment as temporary Cooks on consolidated pay salary, is under challenge in the present writ petition.

2.All the writ petitioners were engaged as Cooks and the 15th petitioner was engaged as Barber in the third respondent TSP Coastal Security Group Battalion, Mandapam Camp, Manimutharu.

3.The learned counsel appearing for the writ petitioners state that the writ petitioners were selected and appointed as Cooks and Barber on 15.03.2007 and consolidated pay of Rs.1,500/- was fixed, subsequently, the Government issued orders sanctioning the post of Cooks and thereafter, the writ petitioners were absorbed in the sanctioned post in the regular time scale of pay from the date on which the Government Order was passed. The learned counsel for the writ petitioners further state that the petitioners were appointed in the year 2007 and therefore, the regularization must be granted with effect from their initial date of appointment.

4.The learned Additional Government Pleader appearing on behalf of the respondents state that the petitioners were initially appointed as consolidated pay salary employees and during the relevant point of time, there was no sanctioned post. The initial appointment of the writ petitioners were not made in accordance with the recruitment Rules in force. Thus, the initial appointments of the writ petitioners were irregular. Subsequently, the post of Cook was sanctioned and the writ petitioners were absorbed in the time scale of pay with effect from the date of the Government Orders. The Government Order was issued in G.O.Ms.No.110, Home (Police) Department dated 17.02.2011. The Government Order issued in G.O.Ms.No.110, states that they were brought under the time scale of pay and the Government Order is effected from the date of the order. Accordingly, the regularization was granted from the date of issuance of the Government Order in G.O.Ms.No.110, dated 17.02.2011.

5.This Court is of the considered opinion is that, the initial appointments of the writ petitioners were irregular and not in accordance with the recruitment Rules in force. The benefit of regularization and permanent absorption granted to these writ petitioners itself is a concession granted by the Government. As per the legal principles settled by the Constitution Bench of Hon'ble Supreme Court of India, regularization and permanent absorption cannot be granted in violation of recruitment Rules in force. However, the Government had taken a lenient view and granted the benefit of regularization and permanent absorption by way of concession. Thus, such concession cannot be extended so as to grant regularization with retrospective effect from the date of their initial appointment on consolidated pay. Once the concession is



extended by the Government and the benefit of regularization was granted, the employees who got the benefit of regularization cannot seek retrospective regularization, in view of the fact that their initial appointments were not in accordance with the recruitment rules in force. When the service of many such temporary consolidated employees were not regularized, the benefit of regularization were granted to the writ petitioners by the Government by way of concession.

6. Under these circumstances, this Court is of the considered opinion that the retrospective regularization with monetary benefits as sought for in the writ petition cannot be granted and the writ petitioners were already granted with the benefit of regularization from the date of the Government Order issued in G.O.Ms.No.110, no further relief in the matter of regularization with effect from the date of initial appointment is to be considered by this Court.

7. In view of the above, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary,
Home (Police) Department,
Tamil Nadu Government,
Secretariat, Chennai.

2. The Director General of Police,
Chennai-4.

3. The Commandant,
TSP Coastal Security Group Battalion,
Mandapam Camp
at Manimutharu,
Tirunelveli District.

+1 CC to Mr.A.HAJA MOHIDEEN, Advocate SR-83070.

+1 CC to SPL GP SR-83337.

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CS(25.09.2019) 3P 6C